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JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO, IL 60606

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| EXAMINER |
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HOEL, MATTHEW D

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3713

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,072

Applicant(s)

ROTHSCHILD, WAYNE H.

Examiner

Matthew D. Hoel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7-5-2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 59-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-58 and 62-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2-25-2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Claims 1 to 65 in light of Wiltshire ('602) have been considered but are moot in view of the new ground(s) of rejection.
2. The examiner accepts the corrections to the specification on Dec. 12th, 2004, and to the drawings on Feb. 25th, 2005, as no new matter has been added. The corrections to the claim status identifiers submitted on July 5th, 2005 are accepted.

Election/Restrictions

3. Claims 59 to 61 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group V, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Mar. 28th, 2005. The examiner agrees with the applicant's traversal and has examined Groups I, II, III, and IV on their merits.
4. This application contains Claims 59 to 61, Group V, drawn to an invention nonelected with traverse in Paper No. 10/092,072 (Election, Mar. 28th, 2005). A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Objections

5. Claims 1 and 39 objected to because of the following informalities: Claim 1 cites “including” in the seventh line and “wherein” in the eighth line. The examiner believes the applicant meant to cite “includes” and “and wherein” respectively. Claim 39 cites “receive” in the second line and “store” in the third line. The examiner believes the applicant meant to cite “receives” and “stores” respectively. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The examiner has noted that, at first glance, Claim 10 and Claims 19 and 21 which depend from it appear to conflict, raising an issue of indefiniteness. Careful analysis of Claim 10 shows that it cites a plurality of games that can be played, further citing that the game software for *one* of them can be executed on the central server. This leaves open the possibility of another one of the games being executed on the client gaming device as cited in Claim 19, executing *another* game on the central server as cited in Claim 21, or the client gaming device being free of a game engine as cited in Claim 23. No indefiniteness rejections have been made.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

8. The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claim 57 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 57 recites the limitation "the user interface" in the third and fourth lines.

There is insufficient antecedent basis for this limitation in the claim. Citing "...the wagering game, *and* a user interface..." would remedy the lack of a conjunction in the sentence.

Claim Rejections - 35 USC § 102

11. (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Harkham (WIPO publication WO 01/91866 A1, PCT application PCT/US01/17285).

13. As to Claim 1: Harkham in '866 teaches a method of using a casino-based, player-operated comprising (Abst.): accessing a web-based central server system (web site, Page 2, Lines 9 to 12; server, Page 2, Lines 26 to 33) from the gaming machine in a land-based casino (casinos 110 and 112, Fig. 1), the gaming machine being linked to the central server system by a reconfigurable, multi-site computer network (Internet, Page 4, Line 20); and conducting, via the gaming machine, a wagering game on the computer network by receiving a wager from the player (Page 3, Lines 27 to 28), generating a random event (cards dealt or wheel spun, Page 9, Line 18), and providing an award to the player for a winning outcome of the random event (Page 30, Lines 30 to

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31); wherein the wagering game includes audiovisual content (Page 10, Lines 11 to 12) and game software for generating the random event (virtual slot machine, Page 15, Lines 20 to 22); and wherein the step of conducting the wagering game includes executing the audiovisual content at the gaming machine (Page 10, Lines 11 to 12).

14. As to Claims 2, 12, 32, and 53: The wagering game of '866 can be slots (Page 15, Lines 7 to 23).

15. As to Claims 3, 13, and 33: Fig. 2 of '866 shows an in-hotel gaming network, which is an intranet.

16. As to Claim 6: '866 downloads the audiovisual content from the central server to the gaming machine (Page 3, Lines 19 to 29; Page 8, Lines 32 to 34; Page 11, Lines 21 to 33). '866 conducts the wagering game by executing the game software at the central server system (Page 15, Lines 7 to 23).

17. As to Claim 7: '866 teaches downloading the audiovisual content from the central server system to the gaming machine (Page 3, Lines 19 to 29; Page 8, Lines 32 to 34; Page 11, Lines 21 to 33) and executing the audiovisual content at the gaming machine (Page 10, Lines 11 to 12). It would be obvious to one of ordinary skill in the art to download and execute a significant portion of the game software at the wagering machine. The client gaming machine has software that controls a USB card reader at the client gaming machine to verify the user's identity for security purposes (Page 2, Lines 1 to 15), a process controlled by software. The player can also interact with other players by video, audio, and chat (Page 21, Lines 9 to 15), also controlled by software. '866 also is also able to execute in memory software from the central server without

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installing it into the hard drive (Page 13, Lines 27 to 34). This enhances security by preventing copying, allows for easy software updates, and allows the client gaming device to execute large programs (Page 13, Line 35). The advantage of this would be to reduce computing load on the central server by doing "housekeeping" functions like security verification at the client.

18. As to Claim 8: The step of accessing the central server system includes accessing a web site operated by the central server system (web site, Page 2, Lines 9 to 12; server, Page 2, Lines 26 to 33).

19. As to Claims 9 and 23: The wagering game of '866 includes audiovisual content (Page 10, Lines 11 to 12) and game software for generating the random event (virtual slot machine, Page 15, Lines 20 to 22), with the gaming machine being free of a game engine for executing the game software. In one embodiment of '866, the games on a hotel gaming system are played on televisions in the users' hotel rooms (Page 5, Lines 23 to 25). Televisions would not have any gaming software, as they are non-programmable.

20. As to Claim 10: Harkham in '866 teaches a method of integrating casino gaming with non-casino gaming (Abst.; casinos, cruise ship, client device, Fig. 1; hotel rooms on hotel gaming system, Fig. 2), comprising: offering a plurality of wagering games (blackjack, Wheel of Fortune TM, keno, or slots) on a central server system (web site, Page 2, Lines 9 to 12; server, Page 2, Lines 26 to 33); conducting one of the games via a player-operated gaming machine in a land-based casino (gaming machines in casinos 110 and 112, Fig. 1, , the gaming machine being linked to the central server system by

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a reconfigurable computer network (Internet, Page 4, Line 20); conducting the same or another of the wagering games via a player-operated computing device remote from any casino and linked to the central server system (client device 102, Fig. 1); wherein the plurality of wagering games each include audiovisual content (Page 10, Lines 11 to 12) and game software for generating a random event (virtual slot machine, Page 15, Lines 20 to 22); and further downloading the audiovisual content from the central server system to the gaming machine (Page 3, Lines 19 to 29; Page 8, Lines 32 to 34; Page 11, Lines 21 to 33), and wherein the step of conducting the one of the wagering games via a player-operated gaming machine includes executing the audiovisual content at the gaming machine (Page 10, Lines 11 to 12) and executing the game software at the central server system (Page 15, Lines 7 to 23).

21. As to Claim 11: '866 receives a wager from the player (Page 3, Lines 27 to 28), generates a random event (cards dealt or wheel spun, Page 9, Line 18), and provides an award to the player for a winning outcome of the random event (Page 30, Lines 30 to 31).

22. As to Claims 14 and 34: The computing device of '866 is linked to the central server system by the Internet (Internet, Page 4, Line 20; web site, Page 2, Lines 9 to 12; server, Page 2, Lines 26 to 33).

23. As to Claims 15 and 35: '866 uses a hardware security key to enable the computing device to be linked to the central server system by the Internet (smart card, Page 2, Lines 1 to 15).

24. As to Claim 21: The gaming system of '866 can execute the audiovisual content at the gaming device (Page 10, Lines 11 to 12) and the game software at the central server system (Page 15, Lines 7 to 23).

25. As to Claim 22: '866 offers a plurality of wagering games on a central server system by posting the wagering games on a web site operated by the central server system (Page 4, Lines 12 to 26; Page 7, Lines 23 to 34).

26. As to Claims 25 and 26: The system of '866 uses web-based interfaces (Page 2, Lines 10 to 11). It would be an obvious design choice to use JavaScript or another web-based language to play the basic version over the network.

27. As to Claim 40: In '866, the central server system can execute audiovisual content (real-time video streaming without interpretation by client device, Page 13, Lines 7 to 10), and game software (Page 15, Lines 7 to 23). The computing device can be used to play the same or another of the wagering games (each player can pick his or her own game, Page 5, Lines 15 to 16).

28. As to Claim 42: The central server system of '866 operates a web site (web site, Page 2, Lines 9 to 12; server, Page 2, Lines 26 to 33) posting a plurality of wagering games (Page 5, Lines 14 to 16).

29. As to Claim 43: The wagering game of '866 includes audiovisual content (Page 10, Lines 11 to 12) and game software for generating a random event (virtual slot machine, Page 15, Lines 20 to 22). At least one of the gaming machines is free of a game engine for executing the game software. In one embodiment of '866, the games on a hotel gaming system are played on televisions in the users' hotel rooms (Page 5,

Lines 23 to 25). Televisions would not have any gaming software, as they are non-programmable.

30. As to Claims 45 and 46: The system of '866 uses web-based interfaces (Page 2, Lines 10 to 11). It would be an obvious design choice to use JavaScript or another web-based language to play the basic version over the network using a computing device or a gaming machine.

31. As to Claim 51: The plurality of games of '866 are associated with a common entity, as they are all stored on a central server system operated by the same casino (Page 5, Lines 14 to 16; Fig. 1).

32. As to Claim 54: The wagering game of '866 includes audiovisual content (Page 10, Lines 11 to 12) and game software for generating the random event (virtual slot machine, Page 15, Lines 20 to 22)

33. As to Claim 55: At least one of the gaming machines of '866 is free of a game engine for executing the game software. In one embodiment of '866, the games on a hotel gaming system are played on televisions in the users' hotel rooms (Page 5, Lines 23 to 25). Televisions would not have any gaming software, as they are non-programmable. The game software in this case is executed by the central server system (Page 15, Lines 7 to 23).

34. As to Claim 58: The system of '866 can be used with slot machines linked together in a casino (Page 4, Lines 11 to 12). It is widely known in the art that video slot machines include a cabinet with a display mounted to the cabinet, the display being adapted to display a wagering game, and a user interface mounted to the cabinet.

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35. As to Claim 59: The system of '866 uses web-based interfaces (Page 2, Lines 10 to 11). It would be an obvious design choice to use JavaScript or another web-based language to play the wagering game over the computer network.

36. As to Claims 62 to 65: The system of '866 uses web-based interfaces (Page 2, Lines 10 to 11). It would thus be an obvious design choice for the machine of '866 to communicate over the computer network using TCP/IP.

Claim Rejections - 35 USC § 103

37. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

38. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

39. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

40. Determining the scope and contents of the prior art.
41. Ascertaining the differences between the prior art and the claims at issue.
42. Resolving the level of ordinary skill in the pertinent art.
43. Considering objective evidence present in the application indicating obviousness or nonobviousness.

44. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harkham ('866) in view of Larose (U.S. pre-grant publication 2002/0087876 A1, application 09/749,421).

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45. As to Claim 19: Harkham in '866 discloses all of the elements of Claim 19, but lacks specificity as to downloading game software from the central server system to the gaming machine and executing the game software at the gaming machine. '866 teaches downloading the audiovisual content from the central server system to the gaming machine (Page 3, Lines 19 to 29; Page 8, Lines 32 to 34; Page 11, Lines 21 to 33) and executing the audiovisual content at the gaming machine (Page 10, Lines 11 to 12). Larose, however, in '786 teaches downloading software from a central server to a computing device and executing the software on the computing device (Abst., Figs. 2 and 3, Para. 33 and 34). It would be obvious to one of ordinary skill in the art to apply the executable download of '786 to the system of '866. The system of '786 can be used for distributing demo versions of game (Para. 53). In '866, client gaming machine has software that controls a USB card reader at the client gaming machine to verify the user's identity for security purposes (Page 2, Lines 1 to 15); this could be used in conjunction with the encryption of '786 (Para. 46 and 47). '866 also is able to execute in memory software from the central server without installing it into the hard drive (Page 13, Lines 27 to 34). This enhances security by preventing copying, allows for easy software updates, and allows the client gaming device to execute large programs (Page 13, Line 35). The executable file download could or '876 could be downloaded and executed in the memory of '866, reducing the likelihood of copying or tampering, and eliminating the need for time-consuming hard-drive installations. The combination of '866 and '786 would download and execute the audiovisual content and game software at the client gaming device instead of at the central server. The

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advantage of this combination would be to reduce computing load on the central server by executing the game software on the client gaming device, while still maintaining the system's security.

46. As to Claims 24 and 44: The software of '786 includes a basic version (110, Fig. 3; game demo version, Para. 53).

47. As to Claim 27: The enhanced version of '786 has upgraded audiovisual content (versions two and three graphics files, 305 and 306, Fig. 3).

48. As to Claims 28 and 29: The system of '786 downloads the upgraded audiovisual content from the central server system to the gaming machine and stores the audiovisual content locally on the computing device or gaming machine (Fig. 2, Para. 84).

49. As to Claim 30: At least one of the games of '786 has a basic version and an enhanced version (Para. 53 to 55). The enhanced version of '786 has upgraded audiovisual content (versions two and three graphics files, 305 and 306, Fig. 3). The basic version is conducted on a computing device or a gaming machine (Para. 84). The system of '866 uses web-based interfaces (Page 2, Lines 10 to 11). It would be an obvious design choice to use JavaScript or another web-based language to play the basic version over the network. The enhanced version of '786 is conducted, downloaded, and stored locally with the enhanced audiovisual content (Fig. 3) on a computing device or a gaming machine (Para. 84).

50. As to Claim 31: The combination of Harkham ('866) and Larose ('786) teaches a web-based system ('866, Page 7, Lines 31 to 34) of integrating casino gaming with non-

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casino gaming ('866, Abst.; casinos, cruise ship, client device, Fig. 1; hotel rooms on hotel gaming system, Fig. 2), comprising: a central server system (Fig. 1, '866) offering a plurality of wagering games ('866, Page 16, Lines 30 to 31); a plurality of player-operated gaming machines located in a land-based casino and linked to the central server system ('866, Fig. 1) by a reconfigurable computer network ('866, Internet, Page 4, Line 20), the gaming machines being used to conduct one of the wagering games; and a player operated computing device remote from any land-based casino and linked to the central server system ('866, client device, Fig. 1), the computing device being used to conduct the same or another of the wagering games; wherein the plurality of wagering games each include audiovisual content ('866, Page 10, Lines 11 to 12) and game software for generating a random event ('866, virtual slot machine, Page 15, Lines 20 to 22); and wherein the central server system executes the game software ('866, Page 15, Lines 7 to 23), and the gaming machines receive the audiovisual content from the central server system ('866; Page 3, Lines 19 to 29; Page 8, Lines 32 to 34; Page 11, Lines 21 to 33) and store the audiovisual content locally ('786, Para. 84).

51. As to Claim 39: One of the gaming machines of '786 receives the audiovisual content and game software from the central server system, stores the audio visual content and game software locally, and executes the game software locally (Figs. 2 and 3, Para. 84).

52. As to Claim 41: In '866 the central server system executes the game software (Page 15, Lines 7 to 23). In '786, the computing device receives the audiovisual

content from the central server system and stores the audiovisual content locally (Figs. 2 and 3, Para. 84).

53. As to Claim 47: The game of '786 has an enhanced version having upgraded audiovisual content (Fig. 3, Para. 53 to 55).

54. As to Claims 48 and 49: The computing device of '786 receives the upgraded audiovisual content from the central server system and stores it locally (Fig. 3, Para. 53 to 55, Para. 84). '866 teaches a gaming machine, which is a computing device (Abst.).

55. As to Claim 50: At least one of the games of '786 has a basic version and an enhanced version (Para. 53 to 55). The enhanced version of '786 has upgraded audiovisual content (versions two and three graphics files, 305 and 306, Fig. 3). The basic version is conducted on a computing device or a gaming machine (Para. 84). The system of '866 uses web-based interfaces (Page 2, Lines 10 to 11). It would be an obvious design choice to use JavaScript or another web-based language to play the basic version over the network. The enhanced version of '786 is conducted, downloaded, and stored locally with the enhanced audiovisual content (Fig. 3) on a computing device or a gaming machine (Para. 84).

56. As to Claim 52: The combination of '866 and '786 teaches a casino-based gaming machine located in a land-based casino: comprising interface circuitry for linking the gaming machine to a web-based central server system over a reconfigurable, multi-site computer network ('866, Fig. 1); processing circuitry for accessing a wagering game on the central server system ('866, Page 5, Lines 14 to 16); and a user interface for receiving inputs from a player for playing a wagering game ('866, gaming devices with

user inputs, Page 4, Lines 12 to 20); the processing circuitry receives the audiovisual content from the central server system and stores the audiovisual content locally on the gaming machine ('786, Fig. 3, Para. 84).

Citation of Pertinent Prior Art

57. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pease, et al. in U.S. patents 5,759,102 A and 6,135,887 A teach a peripheral device download method. Wiltshire, et al. in U.S. patent 6,409,602 B1 teach a slim-terminal gaming system. Vuong, et al. in U.S. patent 5,762,552 A teach an interactive network gaming system. Cordero, et al. in U.S. pre-grant publication 2001/0044339 A1, application 09/789,834, teach a multi-player computer game. Walker, et al. in U.S. patent 6,001,016 A teach a remote gaming device. D'Arlach, et al. in U.S. patent 6,026,433 A teach a method of creating and editing a website. Rowe in U.S. pre-grant publication 2002/0138594 A1, application 09/965,524, teaches wide-area program distribution. Okamoto in U.S. patent 5,489,103 A teaches a communication system for video game software. Xidos, et al. in U.S. patent 5,851,149 A teach a distributed gaming system. Hirai in U.S. patent 6,334,104 B1 teaches a sound effects affixing system. Reed, et al. in U.S. patent 6,402,618 B1 teach a computer software delivery system. Moriguchi in U.S. patent 6,273,821 B1 teaches a game distribution system. Weiss in U.S. patent 6,077,162 A teaches a group gaming system. Ogawa, et al. in U.S. patent 6,346,048 B1 teach a game data distribution system. Menashe in U.S.

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patent 5,586,937 A teaches a gaming system with remote terminals. Well, et al. in U.S. patent 6,805,634 B1 teach a method for downloading data to gaming devices.

Conclusion

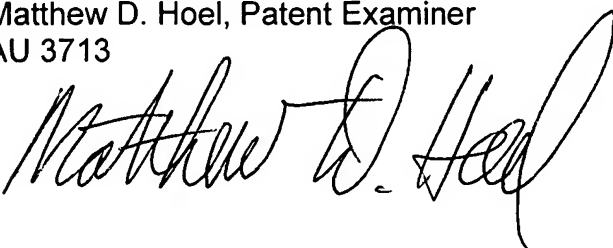
58. The most recent amendments to the claims did not change the scope of the claims; they merely moved some features from the dependent to the independent claims. Thus, a new ground of rejection is made, not necessitated by amendment, so this rejection is non-final.

59. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

60. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

61. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew D. Hoel, Patent Examiner
AU 3713



XUAN M. THAI
SUPERVISORY PATENT EXAMINER
TC3700